



Santa Clara Valley Water District Board of Directors Meeting

***Gilroy City Council Chambers
7531 Rosanna Street
Gilroy, CA 95020**

***Note:** Live Webstreaming is not available from offsite locations. A Video Archive will be published following Adjournment.

7:00 P.M. SOUTH COUNTY PUBLIC HEARING AGENDA

**Thursday, April 12, 2018
7:00 PM**

District Mission: Provide Silicon Valley safe, clean water for a healthy life, environment and economy.

DISTRICT BOARD OF DIRECTORS

Richard P Santos, Chair, District 3
Linda J LeZotte, Vice Chair, District 4
John L Varela, District 1
Barbara Keegan, District 2
Nai Hsueh, District 5
Tony Estremera, District 6
Gary Kremen - District 7

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the Clerk of the Board at the Santa Clara Valley Water District Headquarters Building, 5700 Almaden Expressway, San Jose, CA 95118, at the same time that the public records are distributed or made available to the legislative body. Santa Clara Valley Water District will make reasonable efforts to accommodate persons with disabilities wishing to attend Board of Directors' meeting. Please advise the Clerk of the Board Office of any special needs by calling (408) 265-2600.

NORMA CAMACHO
Chief Executive Officer

MICHELE L KING, CMC
Clerk of the Board
(408) 265-2600
Fax (408) 266-0271
www.valleywater.org

Note: The finalized Board Agenda, exception items and supplemental items will be posted prior to the meeting in accordance with the Brown

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1. CALL TO ORDER:

1.1. Roll Call.

1.2. Pledge of Allegiance/National Anthem.

1.3. Time Open for Public Comment on any Item not on the Agenda.

Notice to the public: This item is reserved for persons desiring to address the Board on any matter not on this agenda. Members of the public who wish to address the Board on any item not listed on the agenda should complete a Speaker Card and present it to the Clerk of the Board. The Board Chair will call individuals to the podium in turn. Speakers comments should be limited to three minutes or as set by the Chair. The law does not permit Board action on, or extended discussion of, any item not on the agenda except under special circumstances. If Board action is requested, the matter may be placed on a future agenda. All comments that require a response will be referred to staff for a reply in writing. The Board may take action on any item of business appearing on the posted agenda.

2. TIME CERTAIN:

7:00 PM

- 2.1. Continue Public Hearing - Annual Report on the Protection and Augmentation of Water Supplies - February 2018 and Recommended Groundwater Production and Other Water Charges for Fiscal Year 2018-2019 (FY 2018-19) (continued from April 10, 2018).

[18-0179](#)

- Recommendation:
- A. Continue the public hearing pursuant to Section 26.6 of the District Act to consider the District FY 2018-19 Annual Report on the Protection and Augmentation of Water Supplies, and direct staff to review such report with, and solicit comments from the District's advisory committees;
 - B. Hear public comments from groundwater producers and any interested persons regarding such report; and
 - C. Continue the public hearing regarding such report to the April 24, 2018 regular meeting, at 6:00 pm.

Manager: Nina Hawk, 408-630-2736

Attachments: [Attachment 1: Staff Report](#)
[Attachment 2: PowerPoint](#)
[Attachment 3: SCVWD Resolution No. 12-10](#)
[Attachment 4: SCVWD Resolution No. 12-11](#)

Est. Staff Time: 30 Minutes

3. ADJOURN:

- 3.1. Clerk Review and Clarification of Board Requests.
- 3.2. Adjourn to Regular Meeting at 6:00 p.m., on April 24, 2018, in the Santa Clara Valley Water District Headquarters Building Boardroom, 5700 Almaden Expressway, San Jose, California.

File No.: 18-0179

Agenda Date: 4/12/2018
Item No.: 2.1.

BOARD AGENDA MEMORANDUM

SUBJECT:

Continue Public Hearing - Annual Report on the Protection and Augmentation of Water Supplies - February 2018 and Recommended Groundwater Production and Other Water Charges for Fiscal Year 2018-2019 (FY 2018-19) (continued from April 10, 2018).

RECOMMENDATION:

- A. Continue the public hearing pursuant to Section 26.6 of the District Act to consider the District FY 2018-19 Annual Report on the Protection and Augmentation of Water Supplies, and direct staff to review such report with, and solicit comments from the District's advisory committees;
- B. Hear public comments from groundwater producers and any interested persons regarding such report; and
- C. Continue the public hearing regarding such report to the April 24, 2018 regular meeting, at 6:00 pm.

SUMMARY:

Section 26.6 of the District Act requires a public hearing regarding the Protection and Augmentation of Water Supplies report be held on or before the fourth Tuesday of April. This public hearing is conducted to inform the community of the activities performed by the District to ensure reliable water supply and the recommended groundwater production and other water charges to pay for those activities. The hearing provides opportunity for any interested person to submit comments to the Board. This year's rate setting process includes a formal protest procedure consistent with Board Resolutions 12-10 and 12-11 (See attachments 3 and 4). If written protests are filed by a majority of well owners or surface water operators, the groundwater production charge or surface water charge, respectively, cannot be increased.

Staff proposes a 9.7% increase in the North County (Zone W-2) Municipal and Industrial groundwater production charge. Staff recommends maintaining the treated water surcharge at \$100 per acre-foot and the non-contract treated water surcharge at \$50 per acre-foot. The average household in Zone W-2 would experience an increase in their monthly bill of \$3.92 or about 13 cents a day.

In the South County (Zone W-5), staff recommends a 7.7% increase in the M&I groundwater production charge. The average household in Zone W-5 would experience an increase in their

monthly bill of \$1.10 or about 4 cents per day.

Customers in both areas of North and South County may also experience additional charge increases enacted by their retail water providers.

The staff proposed increase to the agricultural groundwater production charge is 22.0% for both zones. An agricultural water user who pumps 2 acre-feet per acre per year would experience an increase of \$0.92 per month per acre.

Staff recommends a 7.7% increase to the surface water master charge. This increase results in a 9.6% increase in the overall North County municipal and industrial surface water charge and 7.7% increase in the overall South County municipal and industrial surface water charge. The overall agricultural surface water charge in either zone would increase by 13.9%. Due to the severity of the recent drought from 2012 to 2016, the water district suspended nearly all raw surface water deliveries in 2014. Now that the historic drought is over, the district has restored surface water for those who requested it.

For recycled water, staff recommends increasing the M&I charge by 8.0%. For agricultural recycled water, staff recommends a 11.3% increase. The increase maximizes cost recovery while concurrently providing an economic incentive to use recycled water. The pricing is consistent with the provisions of the "Wholesale-Retailer Agreement for Supply of Recycled Water Between Santa Clara Valley Water District and City of Gilroy."

The proposed increases in water charges are necessary to pay for critical investments in water supply infrastructure rehabilitation and upgrades, and the development of future drought-proof supplies. For example, the Anderson Dam Seismic Retrofit will help ensure public safety and bolster future water supply reliability. The cost projection for the Anderson Dam Seismic Retrofit project has increased since last year due to the discovery of additional vulnerabilities, which will require a near complete removal of the existing dam, and the determination that the dam's spillway needs to be fully replaced as it has some of the same weaknesses that Oroville Dam's spillway had. Also, the state's proposed plan for the California Water Fix is anticipated to improve the reliability of the infrastructure through which 40% of the county's water supply is delivered.

Staff recommends setting the State Water Project Tax at \$18 million for FY 2018-19. This translates to a property tax bill for the average single family residence of roughly \$27.00 per year. The recommended SWP tax is consistent with past practice. If the recommended FY 2018-19 State Water Project Tax is not approved, the M&I groundwater production charge would need to be increased by an additional \$98/AF in North County and \$21/AF in South County. The open space credit would increase by roughly \$525,000.

The District's Annual Report on the Protection and Augmentation of Water Supplies, among other information, contains a financial analysis of the District's water utility system and additional details about the above recommendations. This report can be found at www.valleywater.org

FINANCIAL IMPACT:

There is no financial impact associated with holding the hearing. If at a subsequent meeting, the

Board approves the recommended groundwater production and other water charges or obtains alternate funding mechanisms, the Water Utility should have sufficient funding for planned operations and capital improvement projects for fiscal year 2018-19.

CEQA:

The recommended action, the holding of a public hearing is not a project under CEQA. Further, establishment of groundwater production charges is not a project under CEQA. CEQA Guidelines Section 15273(a) reads as follows: CEQA does not apply to establishment or modification of charges by public agencies which the public agency finds are for the purpose of meeting operating expenses; purchasing or leasing supplies, equipment and materials; meeting financial reserve needs/requirements; and obtaining funds for capital projects needed to maintain service within existing service areas.

ATTACHMENTS:

- Attachment 1: Staff Report
- Attachment 2: PowerPoint
- Attachment 3: SCVWD Resolution No. 12-10
- Attachment 4: SCVWD Resolution No. 12-11

UNCLASSIFIED MANAGER:

Nina Hawk, 408-630-2736

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Staff Report

In accordance with the District Act, District staff has prepared an annual report on the Protection and Augmentation of Water Supplies, which was filed with the Clerk of the Board on February 23, 2018.

The Report is the 47th annual report on the Santa Clara Valley Water District's (District) activities in the protection and augmentation of the water supplies. This Report is prepared in accordance with the requirements of the District Act, section 26.5. The Report provides information on water requirements and water supply availability, and financial analysis of the District's water utility system. The financial analysis includes future capital improvement and maintenance requirements, operating requirements, financing methods and staff's recommended groundwater production and other water charges by zone for fiscal year 2018–19.

The Rate Setting Process

According to Section 26.3 of the District Act, proceeds from groundwater production charges can be used for the following purposes:

1. Pay for construction, operation and maintenance of imported water facilities
2. Pay for imported water purchases
3. Pay for constructing, maintaining and operating facilities which will conserve or distribute water including facilities for groundwater recharge, surface distribution, and purification and treatment
4. Pay for debt incurred for purposes 1, 2 and 3.

This year, as in past years, staff has carefully evaluated the activities that can be paid for by groundwater production charges. The work of the district is divided into projects. Every project has a detailed description including objectives, milestones, and an estimate of resources needed to deliver the project. To ensure compliance with the District Act, each project manager must justify whether or not groundwater production charges can be used to pay for the activities associated with their project. The financial analysis presented in the annual report is based on the financial forecasts for these vetted projects.

Resolution 99-21 guides staff in the development of the overall pricing structure based on principles established in 1971. The general approach is to charge the recipients of the various benefits for the benefits received. More specifically, pricing is structured to manage surface water, groundwater supplies and recycled water conjunctively to prevent the over use or under use of the groundwater basin. Consequently, staff is very careful to recommend pricing for groundwater production charges, treated water charges, surface water charges and recycled water charges that work in concert to achieve the effective use of available resources.

This year's rate setting process is being conducted consistent with Board Resolutions 99-21, 12-10 and 12-11. While recognizing the Supreme Court found Proposition 218 inapplicable to groundwater production charges, for Fiscal Year 2018-19 only, the groundwater production charge setting process and surface water charge setting process will mirror the process described in Proposition 218 for property-related fees for water services. The rate setting process is consistent with Proposition 26 requirements that the groundwater production and surface water charges are no more than necessary to cover reasonable costs and bear a fair or reasonable relationship to the rate payor's burdens on or benefits received from the groundwater and surface water programs.

As in the past, the Board will continue to hold public hearings and seek input from its advisory committees and the public before rendering a final decision on groundwater production and other water charges for FY 2018–19.

Staff Recommendations

Exhibit 1 shows the proposed groundwater production charges and other charges for FY 2018–19, which are slightly lower than the proposed maximums shown in the District’s Annual Report on the Protection and Augmentation of Water Supplies (PAWS). The proposed maximums allowed for uncertainties that have not materialized at the time of the writing of this report.

Exhibit 1
Summary of Charges
(Dollars Per Acre Foot, \$/AF)

	Dollars Per Acre Foot		
	FY 2016–17	FY 2017–18	Proposed Maximum FY 2018–19
Zone W-2 (North County)			
Basic User/Groundwater Production Charge			
Municipal & Industrial	1,072.00	1,175.00	1,289.00
Agricultural	23.59	25.09	30.61
Surface Water Charge			
Surface Water Master Charge	27.46	33.36	35.93
Total Surface Water, Municipal & Industrial*	1,099.46	1,208.36	1,324.93
Total Surface Water, Agricultural*	51.04	58.45	66.54
Treated Water Charges			
Contract Surcharge	100.00	100.00	100.00
Total Treated Water Contract Charge**	1,172.00	1,275.00	1,389.00
Non-Contract Surcharge	50.00	50.00	50.00
Total Treated Water Non-Contract Charge***	1,122.00	1,225.00	1,339.00
Zone W-5 (South County)			
Basic User/Groundwater Production Charge			
Municipal & Industrial	393.00	418.00	450.00
Agricultural	23.59	25.09	30.61
Surface Water Charge			
Surface Water Master Charge	27.46	33.36	35.93
Total Surface Water, Municipal & Industrial*	420.46	451.36	485.93
Total Surface Water, Agricultural*	51.04	58.45	66.54
Recycled Water Charges			
Municipal & Industrial	373.00	398.00	430.00
Agricultural	47.38	48.88	54.41
*Note: The total surface water charge is the sum of the basic user charge (which equals the groundwater production charge) plus the water master charge			
**Note: The total treated water contract charge is the sum of the basic user charge (which equals the groundwater production charge) plus the contract surcharge			
***Note: The total treated water non-contract charge is the sum of the basic user charge (which equals the groundwater production charge) plus the non-contract surcharge			

The proposed increases in water charges are necessary to pay for critical investments in water supply infrastructure rehabilitation and upgrades, and the development of future drought-proof supplies, most notably purified water. The Anderson Dam Seismic Retrofit will help ensure public safety and bolster future water supply reliability. The cost projection for the Anderson Dam Seismic Retrofit project has increased to \$550 million since last year due to the discovery of additional vulnerabilities, which will require a near complete removal of the existing dam, and the determination that the dam's spillway needs to be fully replaced as it has some of the same weaknesses that Oroville Dam's spillway had. Additionally, the \$290 million Rinconada Water Treatment Plant upgrade is more than halfway complete, and will extend the plant's service life for the next 50 years as well as increase production capacity up to 25%. Roughly \$229 million is planned to be spent on the state's proposed plan for the California Water Fix, which is anticipated to improve the reliability of the infrastructure through which 40% of the county's water supply is delivered. Lastly, the District is moving forward to forge its first public-private partnership (P3) on a \$1 billion investment for recycled and purified water expansion that would bring up to 45,000 AF of new water supply to the county each year.

Given the financial needs summarized above, staff proposes a 9.7% increase in the North County (Zone W-2) Municipal and Industrial groundwater production charge from \$1,175/AF to \$1,289/AF. Staff recommends maintaining the treated water surcharge at \$100/AF, and maintaining the non-contract treated water surcharge at \$50/AF. The proposal equates to a monthly bill increase for the average household of \$3.92 or about 13 cents a day.

In the South County (Zone W-5), staff proposes a 7.7% increase in the M&I groundwater production charge from \$418/AF to \$450/AF. The proposal equates to a monthly bill increase for the average household of \$1.10 or about 4 cents per day.

Customers in both areas of North and South County may also experience additional charge increases enacted by their retail water providers.

Staff recommends a 22.0% increase in the agricultural groundwater production charge in both zones from \$25.09/AF to \$30.61/AF. The staff recommendation equates to a \$0.92 increase per month per acre for an agricultural water user who pumps 2 acre-feet per acre per year.

Staff recommends a 7.7% increase to the surface water master charge from \$33.36/AF to \$35.93/AF to bring revenues in line with costs related to managing, operating and billing for surface water diversions. This increase results in a 9.6% increase in the overall North County municipal and industrial surface water charge and 7.7% increase in the overall South County municipal and industrial surface water charge. The overall agricultural surface water charge in either zone would increase by 13.9%. Due to the severity of the recent drought from 2012 to 2016, the water district suspended nearly all raw surface water deliveries in 2014. Now that the historic drought is over, the district has restored surface water for those who requested it.

For recycled water, staff recommends increasing the M&I charge by 8.0% to \$430/AF. For agricultural recycled water, staff recommends a 11.3% increase to \$54.41/AF. The increase maximizes cost recovery while concurrently providing an economic incentive to use recycled water. This pricing is consistent with the provisions of the "Wholesale-Retailer Agreement for Supply of Recycled Water Between Santa Clara Valley Water District and City of Gilroy."

Staff recommends setting the State Water Project Tax at \$18 million for FY 2018–19. This translates to a property tax bill for the average single family residence of roughly \$27.00 per year. The District incurs an annual indebtedness to the State of California pursuant to its Water

Supply Contract dated November 20, 1961. Such indebtedness is proportional to the District's allocation of water from the State Water Project and pays for construction, maintenance and operation of state water project infrastructure and facilities. Staff anticipates that the District's contractual indebtedness to the State under the State Water Supply Contract for FY 2018–19 will be at least \$21 million. Staff's recommendation regarding the State Water Project tax is consistent with the District's past practice and with the approach of other water districts and agencies that maintain State water supply contracts.

Projections

Exhibit 2 shows actual and projected District-managed water use. FY 2016–17 water usage came in at roughly 207,000 AF. For the current year, FY 2017–18, staff estimates that water usage will be approximately 217,000 AF or flat to the FY 2017-18 budget, and roughly a 24% reduction versus calendar year 2013. For FY 2018–19, total District-managed water use is projected at 226,000 AF, which is a 4% increase relative to the FY 2017-18 estimated actual, and consistent with post-drought usage patterns after the last drought that occurred between 2007 and 2011. The FY 2018-19 water usage estimate represents a 21% reduction relative to calendar year 2013. Water use is projected to ramp up to 251,000 AF by FY 2023-24.

Exhibit 2
District-managed Water Use Projection (1,000's AF)

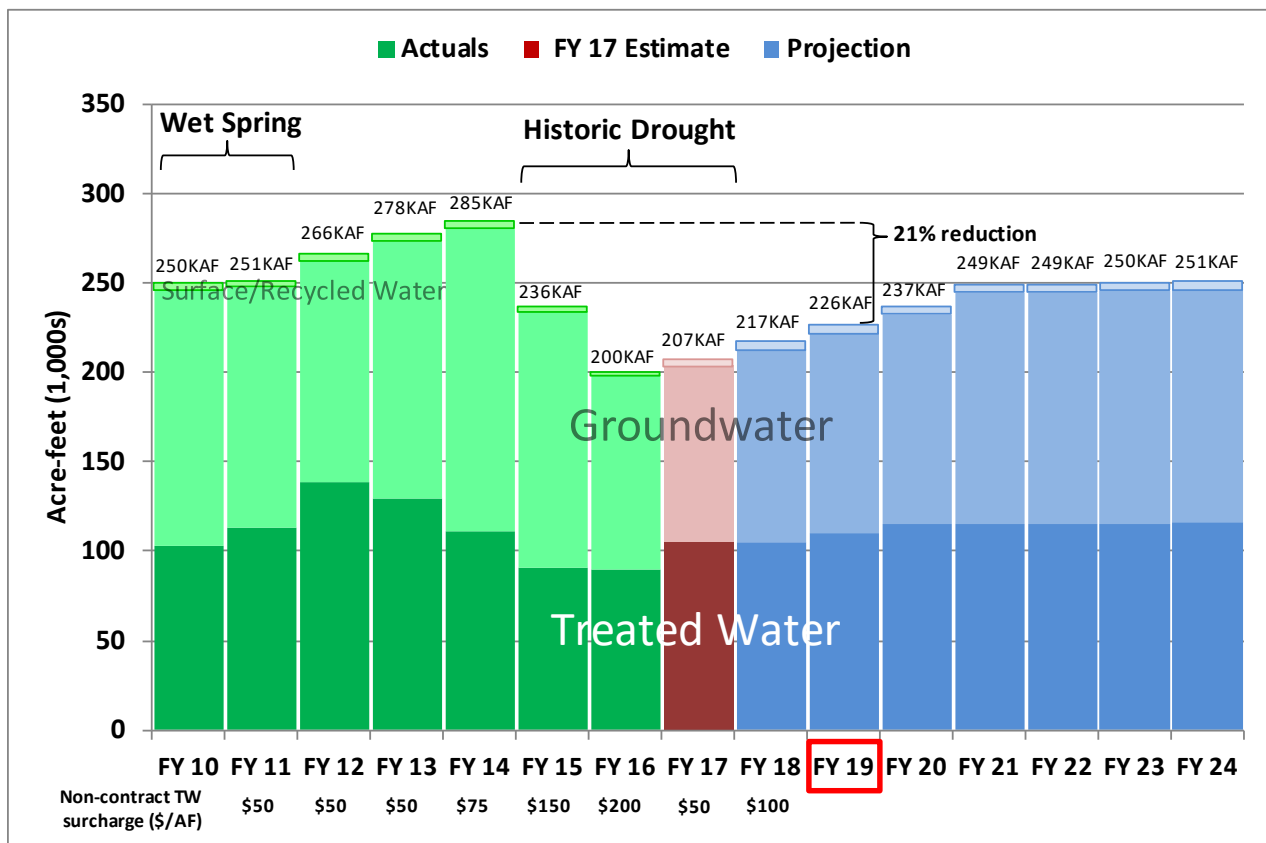


Exhibit 3 shows key financial indicators with staff's recommendation projected to FY 2024-25. The debt service coverage ratio, which is a ratio of revenue less operations expenses divided by annual debt service, is targeted at 2.0 or better which helps to ensure financial stability and continued high credit ratings keeping cost to borrow low.

Exhibit 3
5 Year Charge and Financial Indicator Projection

Base Case	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25
No. County (W-2) M&I GWP charge (\$/AF)	\$1,175	\$1,289	\$1,414	\$1,551	\$1,702	\$1,867	\$2,048	\$2,246
Y-Y Growth %	9.6%	9.7%	9.7%	9.7%	9.7%	9.7%	9.7%	9.7%
So. County (W-5) M&I GWP charge (\$/AF)	\$418	\$450	\$485	\$522	\$562	\$606	\$652	\$703
Y-Y Growth %	6.4%	7.7%	7.7%	7.7%	7.7%	7.7%	7.7%	7.7%
Ag GWP charge (\$/AF)	\$25.09	\$30.61	\$32.97	\$35.51	\$38.24	\$41.19	\$44.36	\$47.77
Y-Y Growth %	6.4%	22.0%	7.7%	7.7%	7.7%	7.7%	7.7%	7.7%
Operating & Capital Reserve	\$45,117	\$35,459	\$45,828	\$50,377	\$53,626	\$60,021	\$61,781	\$71,758
Supplemental Water Supply Reserve (\$K)	\$14,677	\$15,077	\$15,477	\$15,877	\$16,277	\$16,677	\$17,077	\$17,477
Sr. Lien Debt Svc Cov Ratio (1.25 min)	2.56	2.39	2.92	2.77	2.60	2.41	2.36	1.98
South County (Deficit)/Reserves (\$K)	\$11,507	\$8,444	\$10,896	\$11,735	\$13,120	\$15,450	\$10,767	\$8,109

A portion of the projected increases in the groundwater production charge are driven by the capital improvement program as shown in Exhibit 4. Over \$2.0 billion in capital investments, primarily to repair and rehabilitate aging infrastructure, are planned for the next 10 years. FY 2018–19 operations and operating project costs are projected to increase by 5.1% versus the FY 2017–18 adjusted budget, due primarily to the costs associated with the Pacheco Reservoir Feasibility Study Project offset by reduced imported water costs. On a longer term basis, operating outlays are projected to increase an average of 8.9 per year for the next 10 years driven by: 1) the start of Water Service Agreements payments in FY 25 to the District's P3 (Public-Private Partnership) partner upon completion of the Expedited Purified Water Facilities and commencement of the new water supply; 2) the ramp up of anticipated payments associated with the California WaterFix; and 3) inflation. Debt service is projected to rise from \$42 million in FY 2018–19 to \$116.5 million in FY 2027–28 as a result of periodic debt issuances to fund the capital program.

Exhibit 4
Cost Projection by Cost Center (\$M)

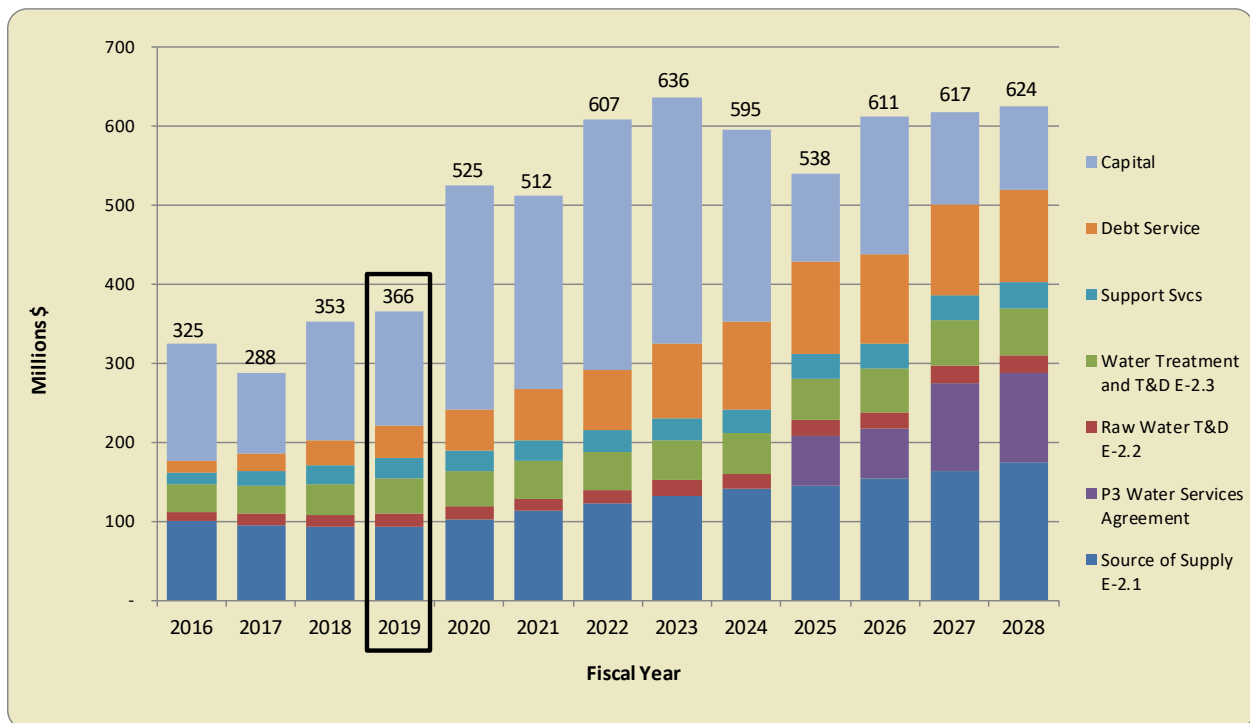


Exhibit 5 shows the groundwater production charge projection for the next 10 years and assumes a continuation of the level of service provided in FY 2017–18 and funding of the preliminary FY 2019-2028 Capital Improvement Program (CIP). Note that there are initiatives and potential uncertainties that could result in the identification of additional capital or operations projects that are not reflected in projection.

Exhibit 5
10 Year Groundwater Charge Projection

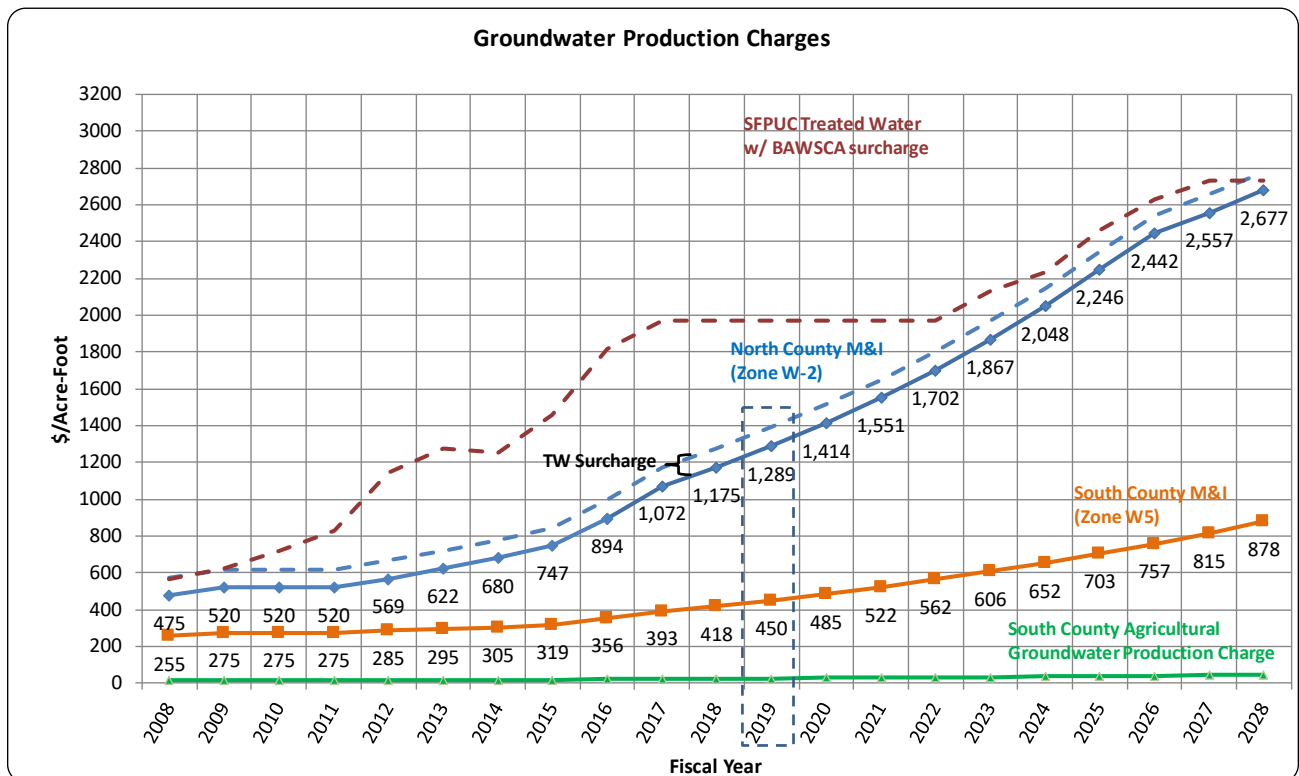


Exhibit 6 shows a comparison of the adjusted proposed groundwater production and treated water charges relative to the anticipated increases for the following similar agencies: Metropolitan Water District, Orange County Water District, San Diego County Water Authority, San Francisco PUC (Hetch Hetchy), and Zone 7.

Exhibit 6
Anticipated FY 2018–19 Water Charge Increases for Similar Agencies

	FY 16	% inc. '16 to '17	FY 17	% inc. '17 to '18	FY 18	Projection FY 19³
SCVWD North W-2 (Groundwater prdctn per AF)	\$894	20%	\$1,072	10%	\$1,175	9.7%
SCVWD North W-2 (Treated Water per AF)	\$994	18%	\$1,172	9%	\$1,275	8.9%
Metropolitan WD (Untreated Water per AF) ¹	\$706	8%	\$762	4%	\$795	4.0%
Metropolitan WD (Treated Water per AF) ¹	\$1,054	2%	\$1,075	4%	\$1,115	2.7%
Orange County WD (Groundwater per AF)	\$322	25%	\$402	11%	\$445	TBD
San Diego County WA (Treated Water per AF) ¹	\$1,519	1%	\$1,531	4%	\$1,594	TBD
San Francisco PUC (Treated Water per AF) ²	\$1,634	9%	\$1,786	0%	\$1,786	0.0%
Zone 7 (Treated Water per AF) ¹	\$1,372	15%	\$1,575	-13%	\$1,367	TBD

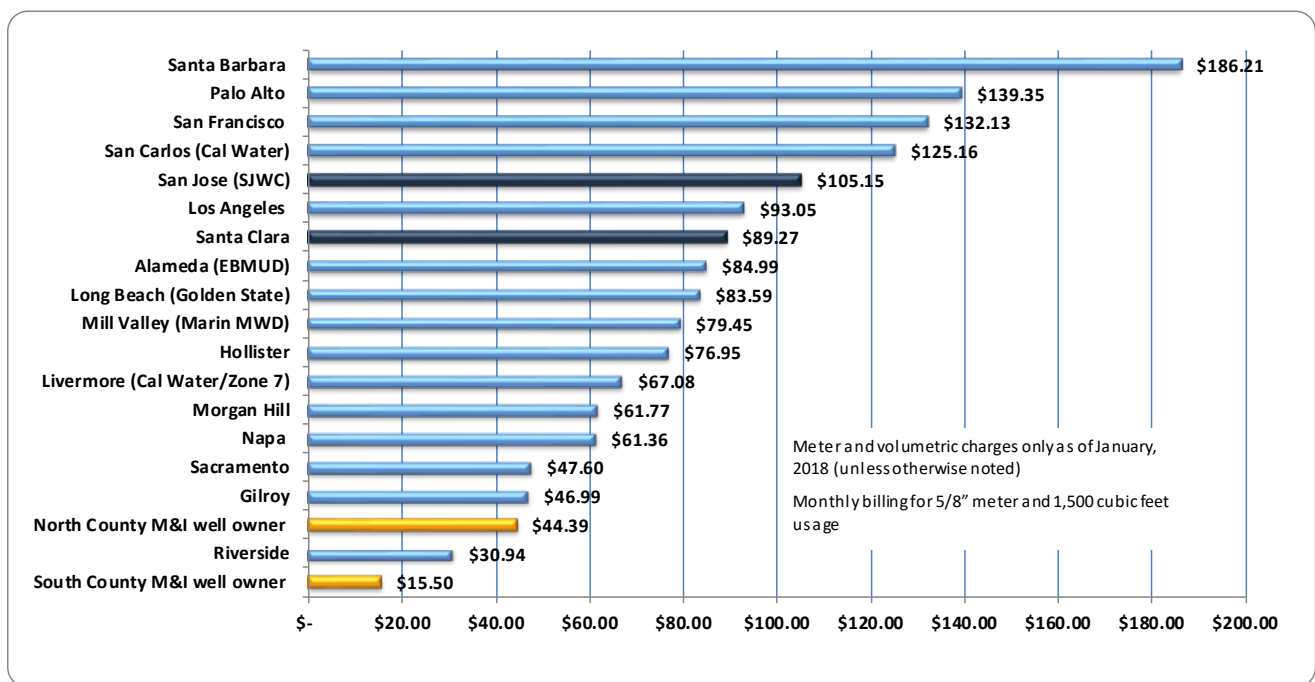
1) MWD, SDCWA and Zone 7 rates based on calendar year (i.e. 2018 rate would be effective on 1/1/2018)

2) SFPUC rate excludes BAWSCA bond surcharge

3) SCVWD FY 19 projection includes staff proposed adjustments to proposed maximum

Exhibit 7 shows a comparison of the average monthly bill for several of the District's retail customers (e.g. SJWC, City of Santa Clara, City of Morgan Hill, and City of Gilroy) relative to the District's perennial list of retail agency comparators across the state. SCVWD retailer rates shown include the SCVWD proposed increase for FY 2018-19. North County and South County well owner rates are also shown, which exclude pumping costs (e.g. electricity) and well maintenance costs.

Exhibit 7 Retail Agency Benchmarks



Cost of Service

The cost of service analyses for FY 2018–19 is shown in Exhibit 8 for North County and Exhibit 9 for South County. The exhibits are laid out in a format that follows six industry standard rate making steps.

1. Identify utility pricing objectives and constraints
2. Identify revenue requirements
3. Allocate costs to customer classes
4. Reduce costs by revenue offsets or non-rate related funding sources
5. Develop unit costs by customer class or net revenue requirements by customer class
6. Develop unit rates by customer class

Step 2 includes identifying and segregating Water Utility Fund costs from Watershed and Administrative Funds and allocating Water Utility costs between zones W-2 (North) and W-5 (South) according to benefit provided. Step 3 involves allocating costs by customer class either directly or based on water usage. Steps 4 and 5 result in unit costs by customer class after applying non-rate related offsets.

Step 6 includes two adjustments. The first adjustment is the application of fungible revenue, in this case 1% ad valorem property taxes, to offset the costs of agricultural water in accordance with Board Resolution 99-21. For FY 2018-19, staff is proposing a \$553K transfer of 1% ad valorem property taxes from the General Fund and \$553K from the Watershed Stream Stewardship Fund as sources for this adjustment also known as the “Open Space Credit.”

The second adjustment involves reallocating a portion of the cost of treated water (or recycled water in the case of South County) to groundwater and surface water users. Treated and recycled water offsets the need to pump groundwater and therefore increases the volume of stored groundwater and improves reliability. The reallocation of a portion of the treated water cost for example represents the value of treated water to groundwater and surface water users and facilitates a pricing structure that prevents the over use of the groundwater basin. Preventing over use not only preserves groundwater for use in times of drought, but also prevents land subsidence or sinking of the land, which can cause serious infrastructure issues.

Another aspect of the second adjustment is related to setting the basic user charge for surface water equal to the groundwater production charge. Surface water use is effectively in-lieu groundwater use permitted by the District to help preserve the groundwater basin. As such, the costs related to preserving the groundwater basin provide value to surface water users because it makes available District surface water, which otherwise would only be used for groundwater recharge. Similarly, the costs related to providing surface water benefit groundwater users because surface water usage helps preserve the groundwater basin. The second adjustment reallocates costs between surface water and groundwater customers in order to set the basic user charge for surface water equal to the groundwater production charge in recognition of this conjunctive use relationship, and in accordance with board policy. A 2015 study was conducted by Raftelis Financial Consultants, Inc (RFC) that confirms the reasonableness of such an adjustment. The report titled “Report Documenting the Reasonableness of the Conjunctive Use Benefit of Surface Water and Recycled Water to Groundwater Customers” documents the support and justification for the water district’s cost of service methodology and can be found on the District’s website.

Exhibit 8
Cost of Service North County Zone W-2 (\$K)

	FY '19 Projection (\$K)	Zone W-2					
		GW		TW	SW		Total W-2
		M&I	AG	M&I	M&I	Ag	
1	Operating Outlays						
2	Operations/Operating Projects	35,683	373	102,630	999	24	139,708
3	SWP Imported Water Costs	5,111	54	15,670	254	6	21,095
4	Debt Service	9,703	103	31,818	130	3	41,758
5	Total Operating Outlays	50,496	531	150,118	1,382	34	202,561
6							
7	Capital & Transfers						
8	Operating Transfers Out	1,875	20	3,376	46	1	5,318
9	Capital Outlays excl. carryforward	19,190	204	91,807	439	11	111,651
10	Total Capital & Transfers	21,065	224	95,183	485	12	116,969
11	Total Annual Program Costs	71,561	755	245,301	1,867	45	319,530
12							
13	Revenue Requirement Offsets						
14	Capital Cost Recovery	(2,033)	(22)	(3,661)	(50)	(1)	(5,767)
15	Debt Proceeds	(9,727)	(103)	(46,534)	(222)	(5)	(56,592)
16	Inter-governmental Services	(357)	(4)	(643)	(9)	(0)	(1,013)
17	SWP Property Tax	(4,099)	(44)	(12,569)	(204)	(5)	(16,920)
18	South County Deficit/Reserve	(387)	(4)	(697)	(10)	(0)	(1,098)
19	Interest Earnings	(382)	(4)	(687)	(9)	(0)	(1,083)
20	Inter-zone Interest	35	0	63	1	0	100
21	Capital Contributions	(494)	(5)	(890)	(12)	(0)	(1,402)
22	Other	(983)	(10)	(900)	(14)	(0)	(1,908)
23	Reserve Requirements	10,818	(7)	55,481	247	(0)	66,540
24	Adjusted Revenue Requirement (FY 19)	63,952	552	234,265	1,586	32	300,387
25	Adjusted Revenue Requirement (FY 16 adj)	(10,153)	(264)	(57,095)	976	(20)	(66,555)
26	Total Adjusted Revenue Requirement	53,799	288	177,170	2,562	12	233,831
27	Volume (KAF)	61.1	0.7	110.0	1.5	0.0	173.3
28							
29	Revenue Requirement per AF	\$ 881	\$ 443	\$ 1,611	\$ 1,708	\$ 331	
30							
31	Adjustments for Agricultural Preservation						
32	Allocate WU 1% Ad Valorem Prop Tax	-	(268)	-	-	(10)	(277)
33	Transfer GF 1% Ad valorem Prop Tax	-	-	-	-	-	-
34	Transfer WS 1% Ad Valorem Prop Tax	-	-	-	-	-	-
35	Revenue Requirement per AF	\$ 880.5	\$ 30.6	\$ 1,611	\$ 1,708	\$ 66.5	
36							
37	Adjustments to Facilitate Conjunctive Use						
38	Reallocate TW/SW/RW costs	24,957	-	(24,382)	(575)	-	(0)
39	Charge per AF	\$ 1,289	\$ 30.6	\$ 1,389	\$ 1,325	\$ 66.5	
40	Total Revenue (\$K)	\$78,756	\$20	\$152,788	\$1,987	\$2	\$233,554

Exhibit 9
Cost of Service South County Zone W-5 (\$K)

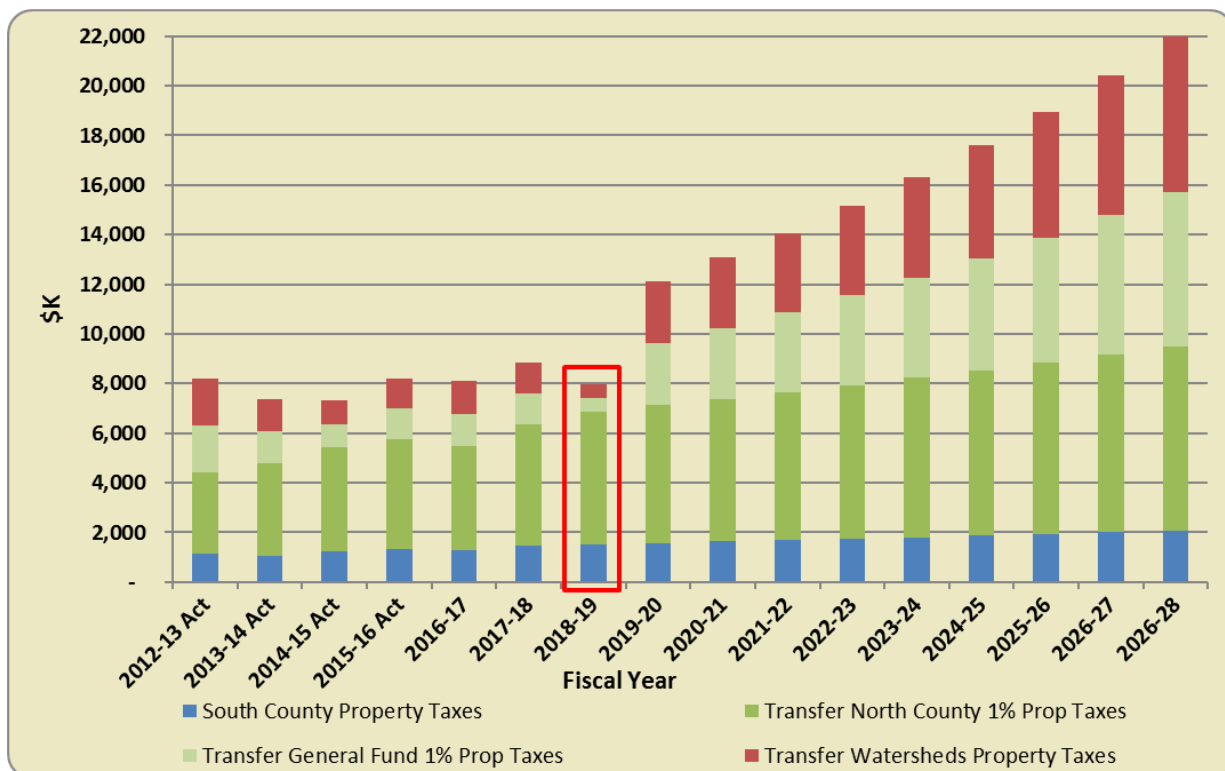
	FY '19 Projection (\$K)	Zone W-5						
		GW		SW		RW		Total W-5
		M&I	AG	M&I	AG	M&I	AG	
1	Operating Outlays							
2	Operations/Operating Projects	9,116	8,866	215	550	130	112	18,989
3	SWP Imported Water Costs	-	-	-	-	-	-	-
4	Debt Service	-	-	-	-	-	-	-
5	Total Operating Outlays	9,116	8,866	215	550	130	112	18,989
6								
7	Capital & Transfers							
8	Operating Transfers Out	-	-	-	-	-	-	-
9	Capital Outlays excl. carryforward	-	-	-	-	-	-	-
10	Total Capital & Transfers	-	-	-	-	-	-	-
11	Total Annual Program Costs	9,116	8,866	215	550	130	112	18,989
12		Step 3 - Allocate costs to customer classes						
13	Revenue Requirement Offsets							
14	Capital Cost Recovery	2,249	2,249	45	117	595	510	5,767
15	Debt Proceeds	-	-	-	-	-	-	-
16	Inter-governmental Services	(67)	(67)	(1)	(4)	-	-	(140)
17	SWP Property Tax	(508)	(508)	(10)	(26)	(14)	(12)	(1,080)
18	South County Deficit/Reserve	1,270	159	(76)	8	(266)	4	1,098
19	Interest Earnings	-	-	-	-	-	-	-
20	Inter-zone Interest	(47)	(47)	(1)	(2)	(1)	(1)	(100)
21	Capital Contributions	-	-	-	-	-	-	-
22	Other	(68)	(68)	(1)	(2)	-	-	(138)
23	Reserve Requirements	-	-	-	-	-	-	-
24	Adjusted Revenue Requirement (FY 19)	11,945	10,584	170	641	444	613	24,397
25	Adjusted Revenue Requirement (FY 16 adj)	(1,111)	(2,288)	79	(393)	271	(286)	(3,727)
26	Total Adjusted Revenue Requirement	10,834	8,297	250	247	715	327	20,670
27	Volume (KAF)	25.0	25.0	0.5	1.3	0.7	0.6	53.1
28								
29	Revenue Requirement per AF	\$ 433	\$ 332	\$ 500	\$ 190	\$ 1,021	\$ 545	
30		Step 5 - Develop unit costs by customer class						
31	Adjustments for Agricultural Preservation							
32	Allocate WU 1% Ad Valorem Prop Tax	-	(6,881)	-	-	-	-	(6,881)
33	Transfer GF 1% Ad valorem Prop Tax	-	(553)	-	-	-	-	(553)
34	Transfer WS 1% Ad Valorem Prop Tax	-	(98)	-	(161)	-	(294)	(553)
35	Revenue Requirement per AF	\$ 433	\$ 30.6	\$ 500	\$ 66.5	\$ 1,021	\$ 54.4	
36								
37	Adjustments to Facilitate Conjunctive Use							
38	Reallocate TW/SW/RW costs	420	-	(7)	-	(414)	-	-
39	Charge per AF	\$ 450	\$ 30.6	\$ 486	\$ 67	\$ 430	\$ 54.4	
40	Total Revenue (\$K)	\$11,255	\$765	\$243	\$87	\$301	\$33	\$12,683

Open Space Credit

The District Act limits agricultural groundwater production charges to a maximum of 25 percent of the M&I groundwater production charges. Current board policy adds an “open space” credit to agricultural revenues. The purpose of the credit is to preserve the open space benefits provided by agricultural lands by keeping agricultural groundwater production charges low. While the Supreme Court recently found Proposition 218 inapplicable to groundwater production charges, the Court determined that Proposition 26 does apply, which means that in order for the groundwater production charge to qualify as a nontax fee, costs to end users must be proportional such that one class of users is not subsidizing another.

The recommended agricultural groundwater production charge for FY 2018–19 is \$30.61 per acre foot, which is 6.8 percent of the proposed M&I groundwater production charge in South County. To comply with the current agricultural groundwater production charge setting policy, staff recommends the open space credit received by South County be \$8.0 million in FY 2018-19 (funded by 1 percent ad valorem property taxes). This includes an adjustment that reconciles FY 2015–16 actuals against what was projected. The \$8.0 million is comprised of a \$5.4 million transfer from North County Water Utility 1% ad valorem property taxes, a \$1.5 million contribution from South County Water Utility 1% ad valorem property taxes, a \$553 thousand transfer of 1% ad valorem property taxes from the General Fund and \$553 thousand from the Watershed Stream Stewardship Fund. As shown in Exhibit 10, the Open Space Credit is projected to grow to \$22 million by FY 2027-28.

Exhibit 10
Open Space Credit Trend



Hearings and Meetings Schedule

Exhibit 11 presents the schedule for the annual groundwater production charge setting process.

Exhibit 11 Hearings and Meetings Schedule – 2018

Date	Hearing/Meeting
January 9	Board Meeting on Preliminary Groundwater Production Charge Analysis
February 23	Mail notice of public hearing and file PAWS report
March 21	Water Retailers Meeting
April 2	Agricultural Water Advisory Committee Meeting
April 3	Landscape Committee Meeting
April 10	Open Public Hearing
April 11	Water Commission Meeting
April 12	Continue Public Hearing in Gilroy (Informational Open House)
April 16	Environmental & Water Resources Committee
April 24	Conclude Public Hearing
May 8	Adopt Budget & Groundwater Production and Other Water Charges

Public Hearing

Groundwater Production & Other Water Charges

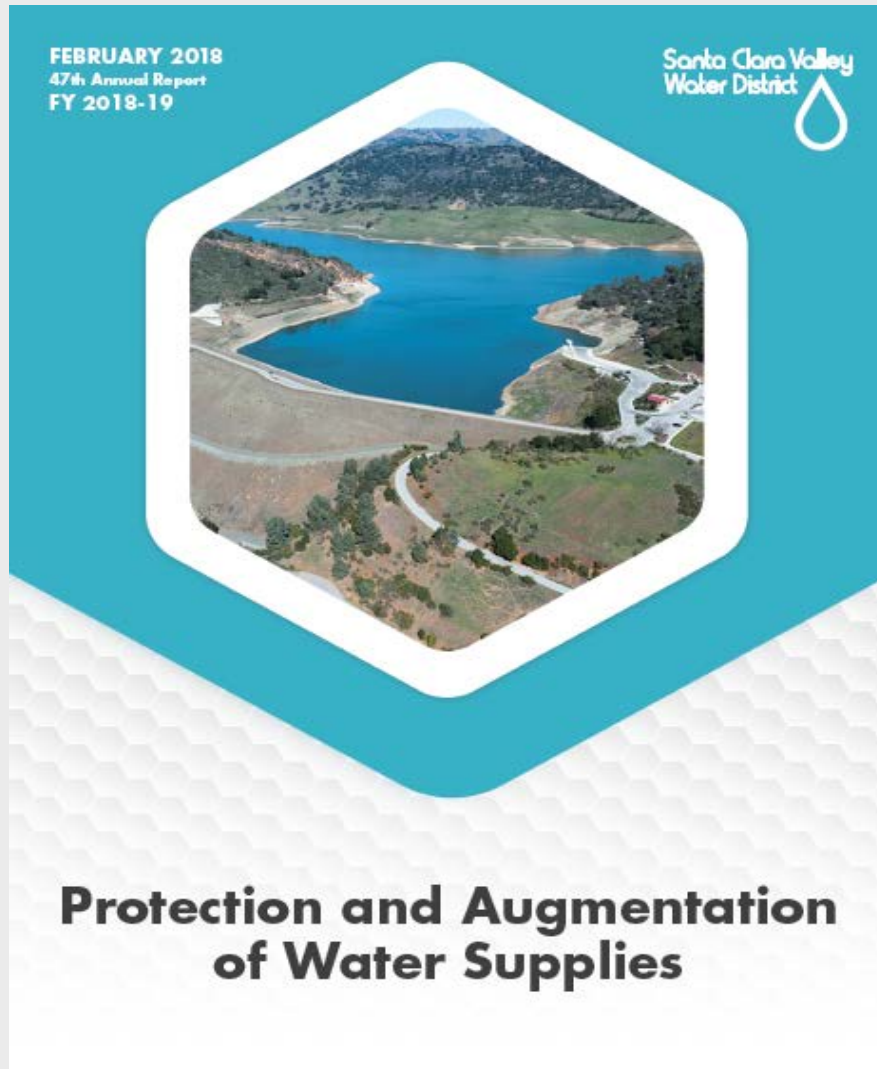
April 12, 2018



Public Hearing has Three Specific Objectives

1. Present annual report on Santa Clara Valley Water District's activities and recommended groundwater production charges
2. Provide opportunity for any interested person to "...appear and submit evidence concerning the subject of the written report" to the Board of Directors
3. Determine and affix Groundwater Production and Other Water Charges for FY 2018-19

47th Annual Report Provides Information, Accountability



2018 Protection and Augmentation of Water Supplies Report

www.valleywater.org

Why do well owners pay SCVWD to pump water from the ground?

Construction at Anderson Reservoir, 1951



\$550M Seismic Retrofit under way at Anderson

- ▶ Local rainfall cannot sustain South County water needs
- ▶ Planning in early 1900's called for construction of reservoirs to capture rainwater to percolate into the ground
- ▶ Groundwater Production Charge is a reimbursement mechanism
 - ▶ pays for efforts to protect and augment water supply
 - ▶ Fee for service, not a tax

A comprehensive, flexible water system serves 1.9 million people



10 Reservoirs

393 acres of recharge ponds

142 miles of pipelines

3 water treatment plants

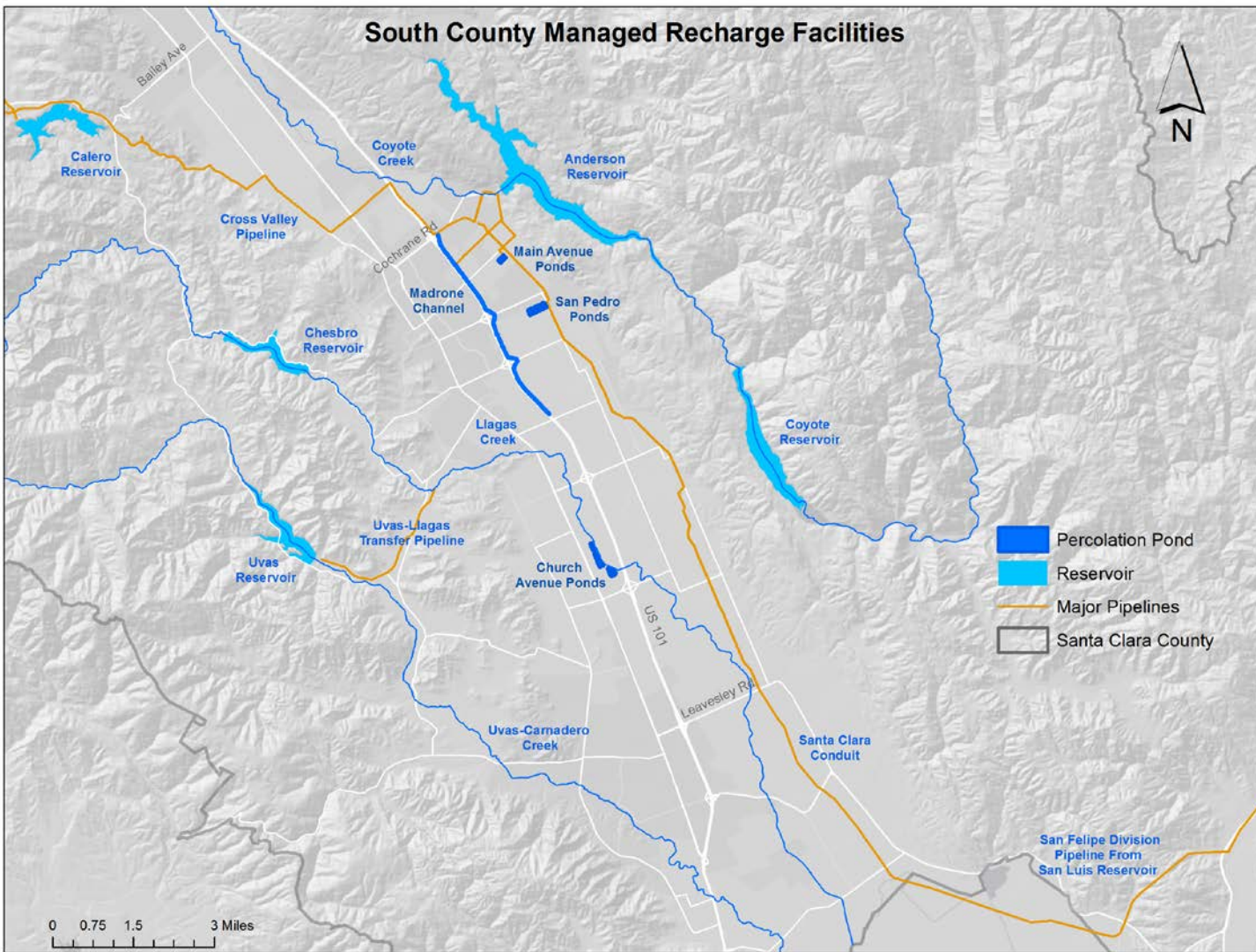
1 water purification center

3 pump stations

\$7.1B system replacement value



South County facilities help ensure reliability



**Main Avenue
Recharge Ponds**



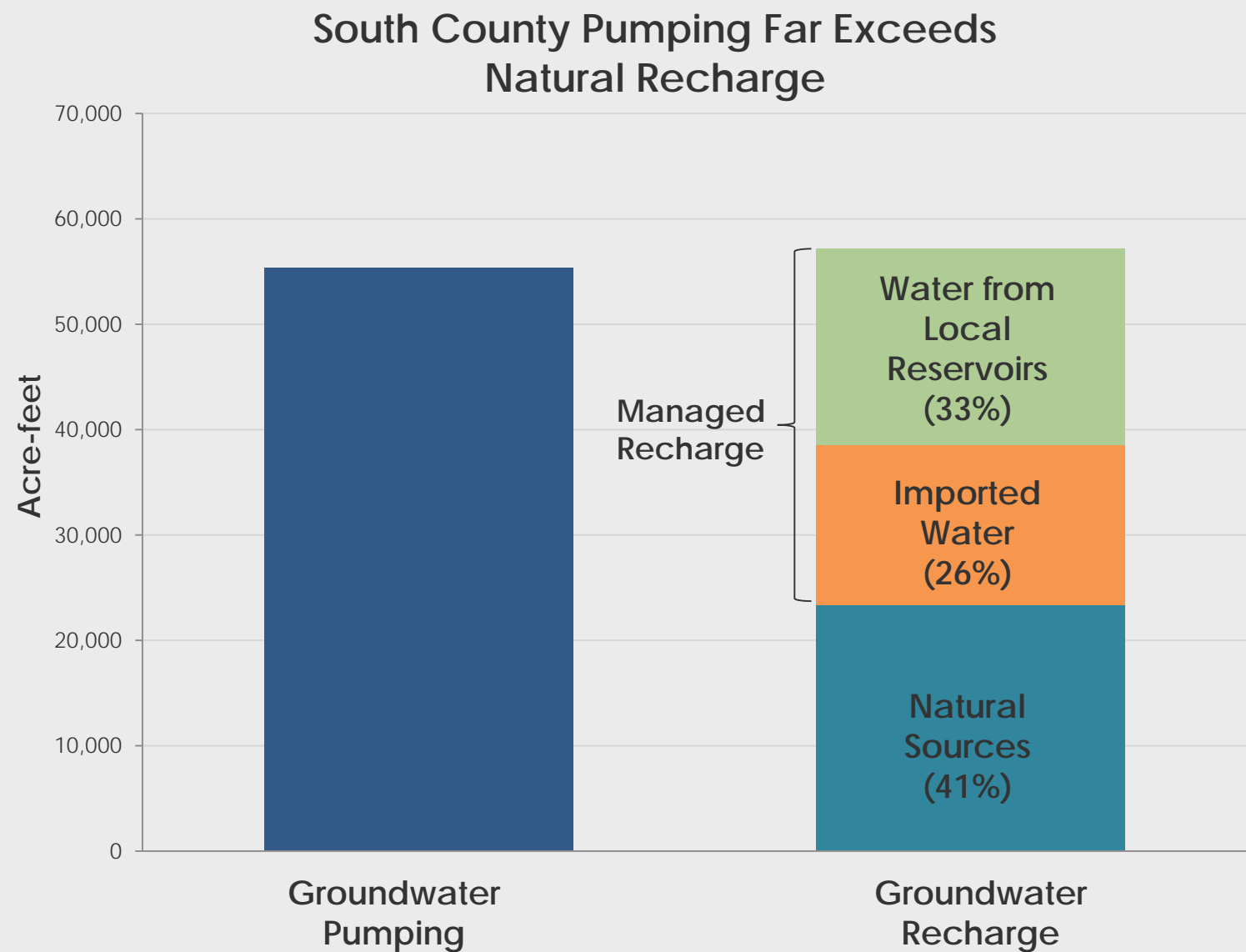
Madrone Channel

Many activities ensure safe, reliable groundwater supplies

- ▶ Plan & construct improvements to infrastructure
- ▶ Purchase imported water
- ▶ Operate & maintain raw & recycled water pipelines
- ▶ Operate & maintain local reservoirs
- ▶ Monitor & protect groundwater from pollutants



Recharge needed to offset groundwater pumping



Based on average annual data from 2005 to 2015

Topics For Today's Public Hearing

- ▶ Rate Setting Process
- ▶ FY 19 financial analysis and projections
 - ▶ Water Usage
 - ▶ Cost Projection
 - ▶ Proposed Maximum Groundwater Production Charges & Staff Proposed Adjustments
- ▶ Schedule/Wrap up

Rate Setting Process

The Charge Setting Process is Consistent with Resolutions 12-10 and 12-11

- ▶ Meets the procedural and substantive requirements for establishing property related fees
- ▶ Includes cost of service analysis by customer class
- ▶ Includes protest procedure as defined in Board Resolutions 12-10 & 12-11
 - ▶ Prior Year Results North County = <1.1% for GW, 0% for SW
 - ▶ Prior Year Results South County = <0.6% for GW, 0% for SW

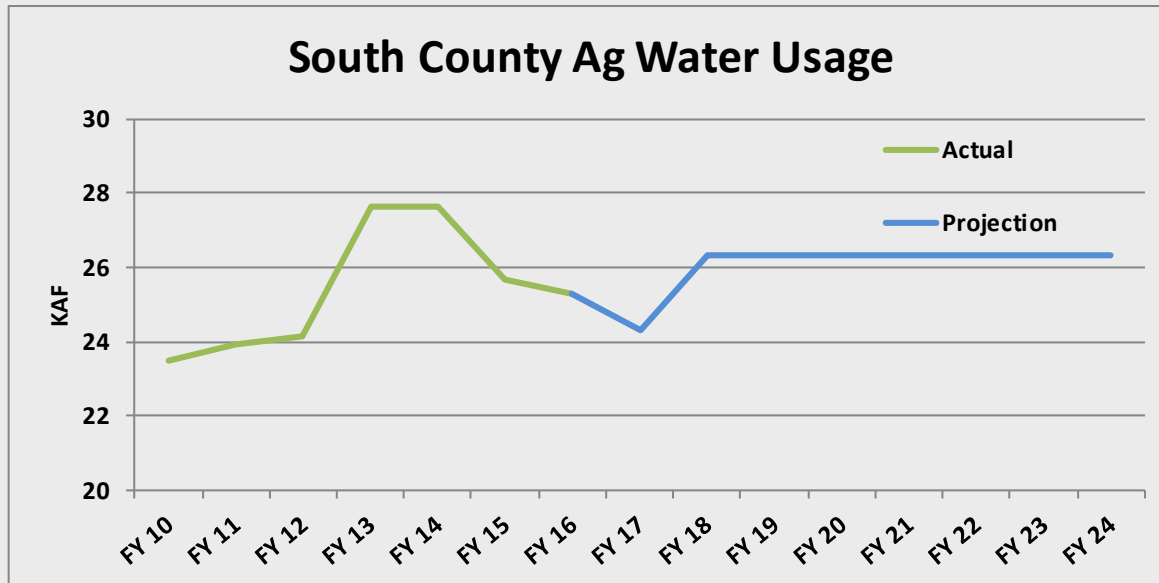
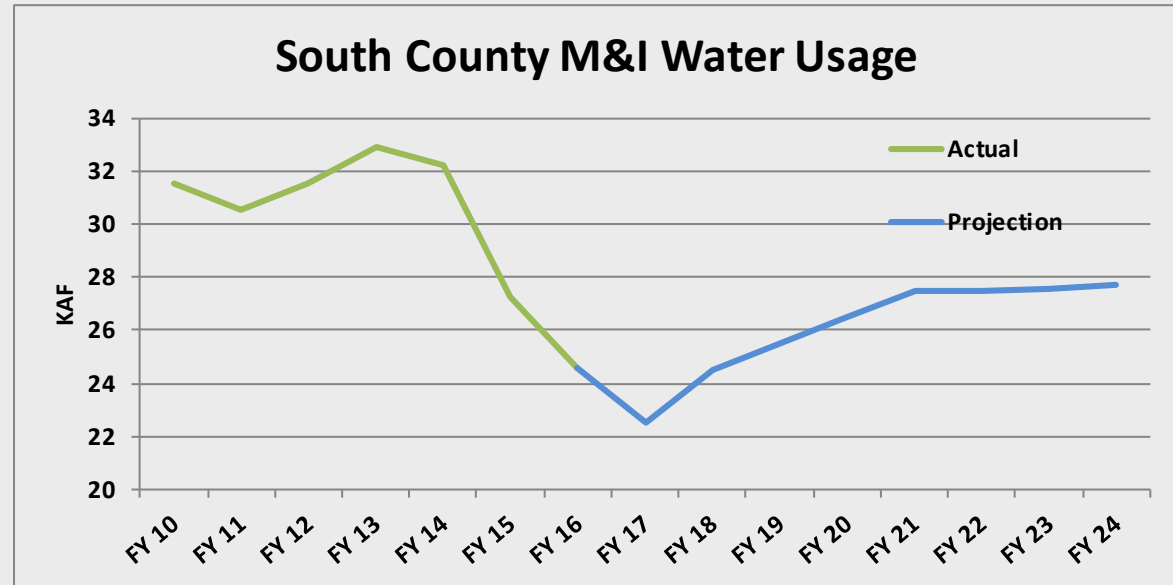
In December 2017, the California Supreme Court concluded that groundwater pumping charges are not subject to the substantive and procedural requirements of Proposition 218.

FY 19 Financial Analysis and Projections

Water Usage Trend South County

Water Usage

(Groundwater & Surface Water)



Key South County Capital project funding FY 19 thru FY 28

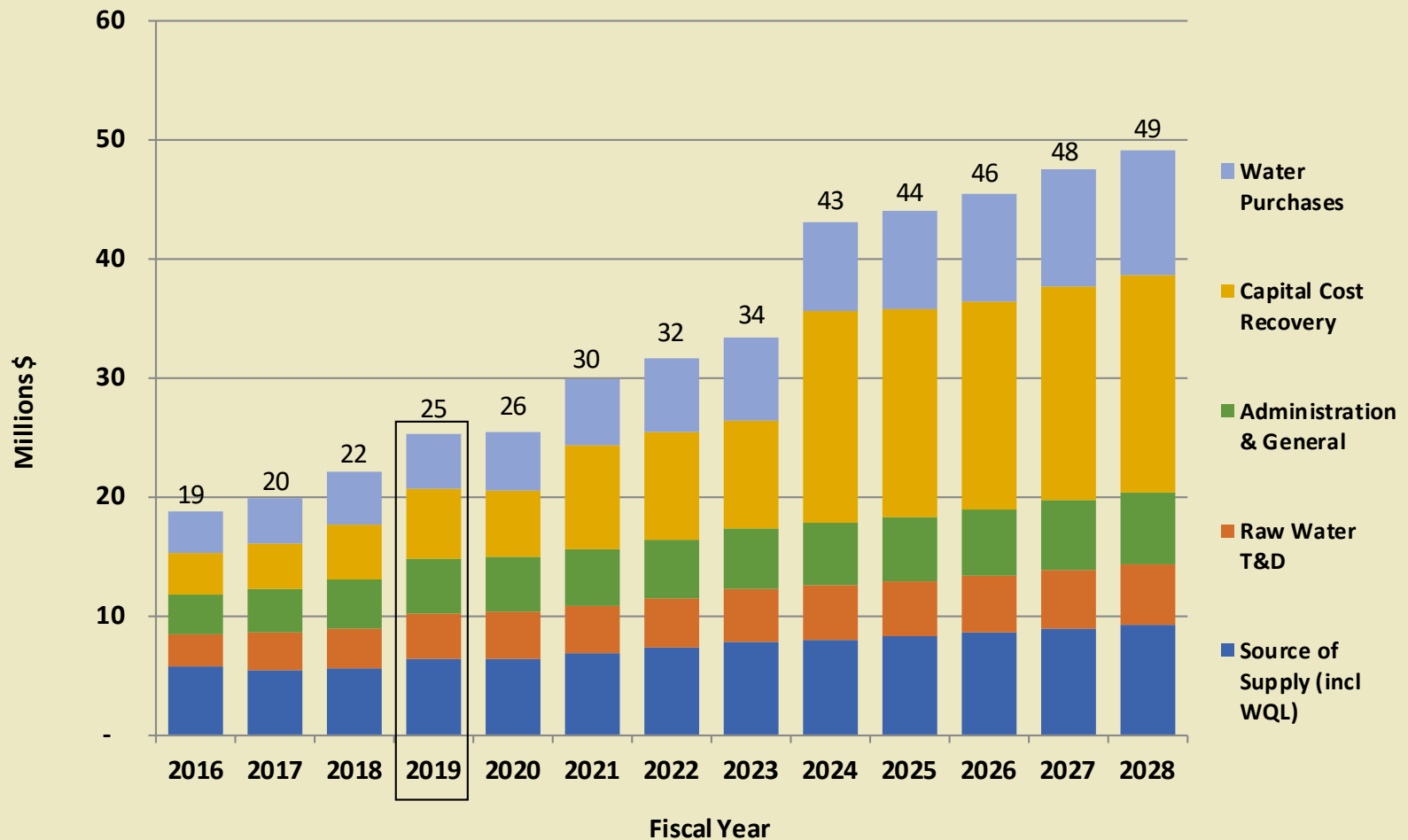
- Anderson Dam Seismic Retrofit (\$510M)
 - \$67M (12% of total \$550M project) to be reimbursed by Safe Clean Water Measure
- Recycled Water Pipeline Expansion (\$19.5M)



Financial Analysis: Unfunded WUE Capital

Project Name	Estimated Total Cost (\$M)
Pacheco Reservoir Expansion Project	1,179
Dam Seismic Retrofit at Chesbro and Uvas	90
SCADA Small Capital Improvements	20
So. County Recycled Water Reservoir Expansion	7
Land Rights - South County Recycled Water PL	6
Alamitos Diversion Dam Improvements	3
Coyote Diversion Dam Improvements	2
Total	1,307

South County Cost Projection



Proposed Maximum Groundwater Production Charges & Staff Proposed Adjustments

FY 2019: South County Proposed Maximum Charges

~~7.7%~~ ~~7.9%~~ increase for M&I & ~~22.3%~~ for Ag groundwater production 22.0%
~~7.7%~~ ~~7.9%~~ increase for M&I surface water & ~~14.1%~~ for Ag surface water 14.0%
~~8.0%~~ ~~8.3%~~ increase for M&I recycled water & ~~22.3%~~ for Ag recycled water 22.0%

Staff proposed adjustments as of 3/14/18

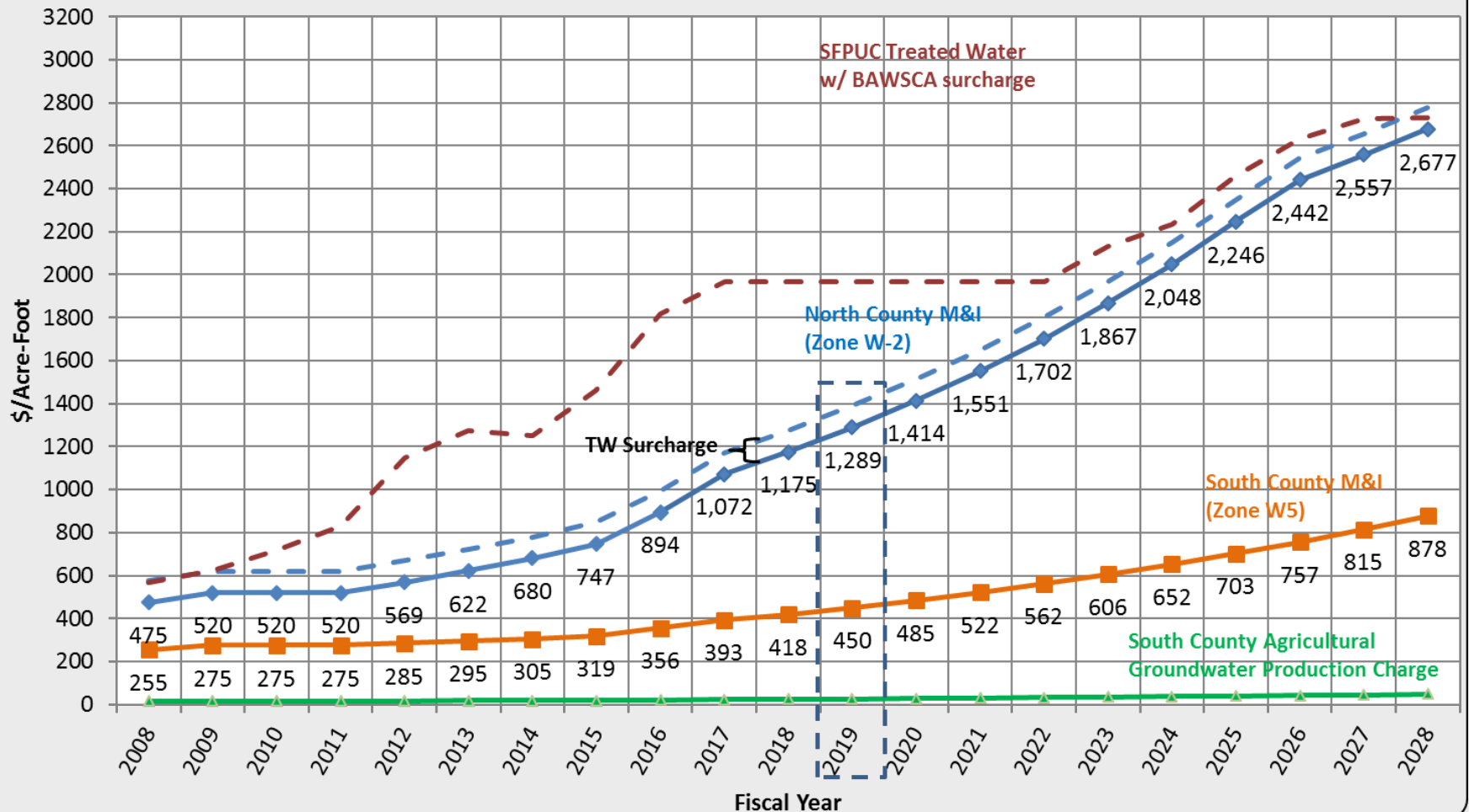
		Dollars Per Acre Foot		
		FY 2016–17	FY 2017–18	Proposed Maximum FY 2018–19
Zone W-5 (South County)				
Basic User/Groundwater Production Charge				
	Municipal & Industrial	393.00	418.00	451.00 450.00
	Agricultural	23.59	25.09	30.67 30.61
Surface Water Charge				
	Surface Water Master Charge	27.46	33.36	36.00 35.93
	Total Surface Water, Municipal & Industrial*	420.46	451.36	487.00 485.93
	Total Surface Water, Agricultural*	51.04	58.45	66.67 66.54
Recycled Water Charges				
	Municipal & Industrial	373.00	398.00	431.00 430.00
	Agricultural	47.38	48.88	54.46 54.41
<p>*Note: The total surface water charge is the sum of the basic user charge (which equals the groundwater production charge) plus the water master charge</p> <p>**Note: The total treated water contract charge is the sum of the basic user charge (which equals the groundwater production charge) plus the contract surcharge</p> <p>***Note: The total treated water non-contract charge is the sum of the basic user charge (which equals the groundwater production charge) plus the non-contract surcharge</p>				

\$1.10

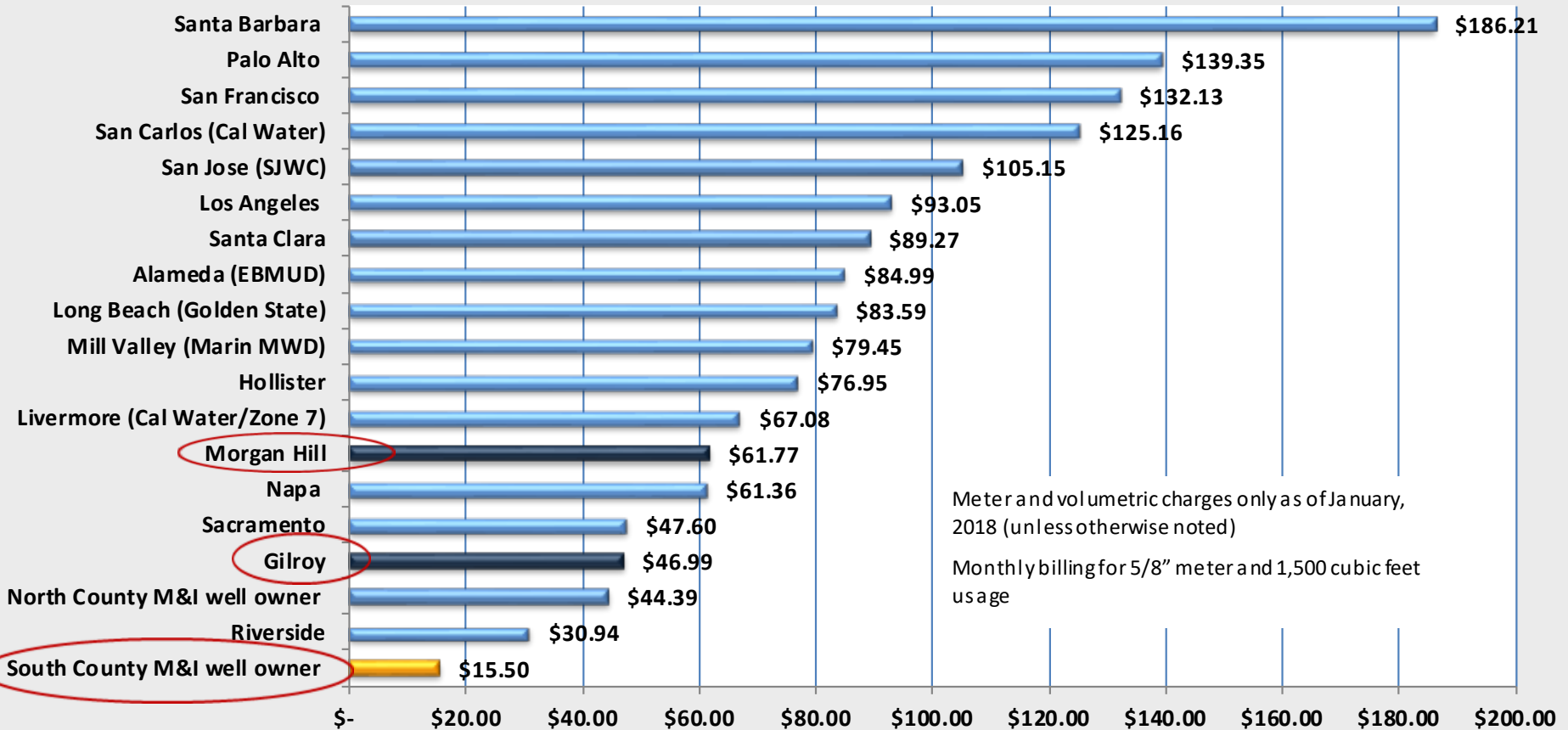
~~\$1.14~~ per month average household increase

Groundwater Production Charges

Groundwater Production Charges



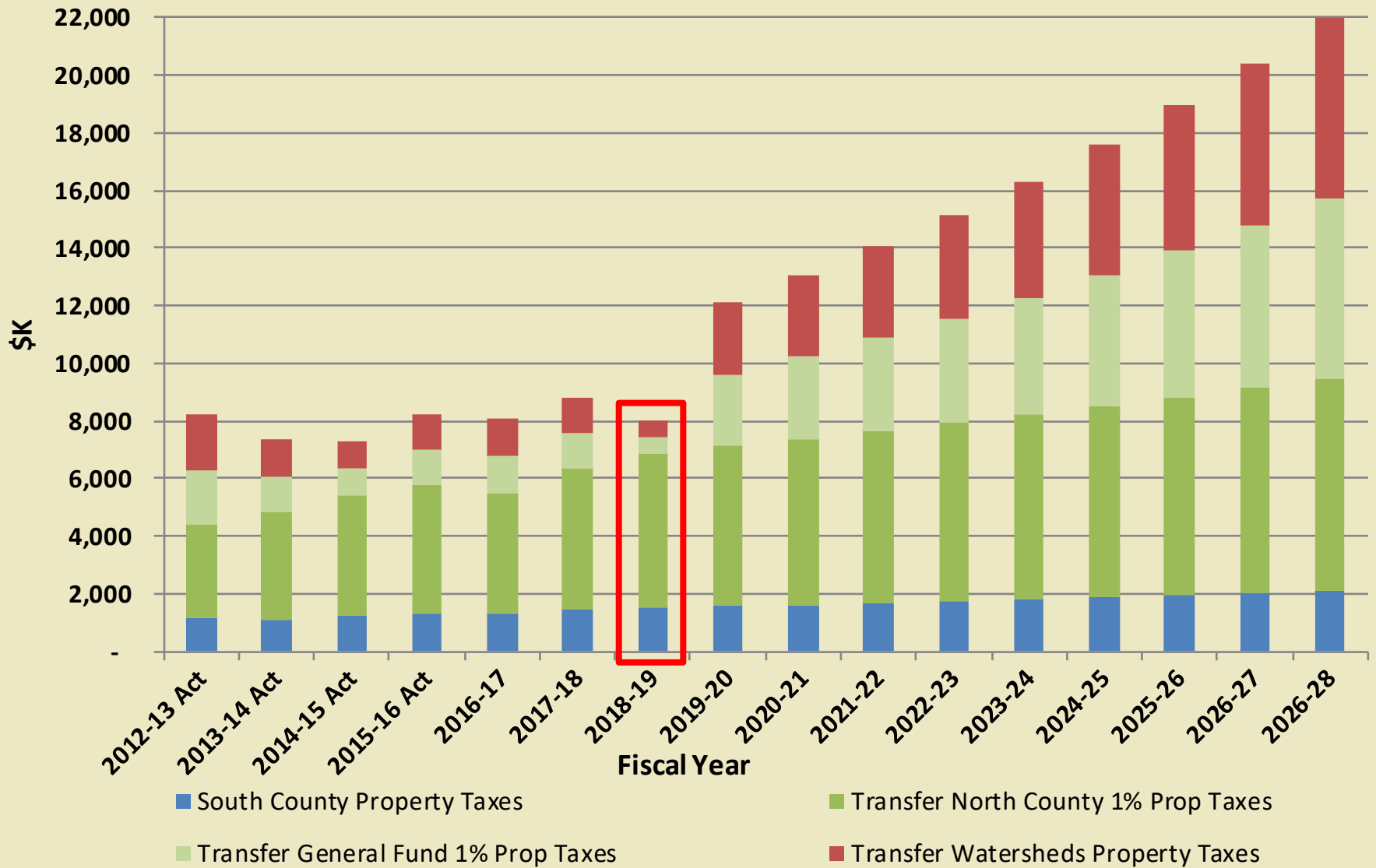
Retail Agency Benchmarks



Notes:

- SCVWD retailer rates shown include SCVWD proposed adjusted increase for FY 2018-19, but do not include increases that retailers may impose
- Well owner rates exclude pumping costs (e.g. electricity) and well maintenance costs

Open Space Credit



Recent OSC Policy Discussions

- 2013
 - ▶ Staff completes extensive OSC policy review and stakeholder engagement process
 - ▶ Board maintains OSC policy as is
 - ▶ South County Ag charge maintained at 6% of M&I
- 2014 - 2016
 - ▶ Board confirms direction to maintain OSC policy as is
- 2017
 - ▶ Presidents Day Flood occurs, CIP Committee requests staff to explore OSC reductions to free up funding for flood protection projects
- Feb 2018
 - ▶ Special Ag Advisory Committee meeting convened to discuss OSC Policy
- Mar 2018
 - ▶ Board Follow-up Discussion on OSC

Schedule & Wrap Up

2018 schedule for hearings and meetings

- ✓ Jan 9 Board Meeting on Preliminary Groundwater Prod. Charge Analysis
- ✓ Feb 24 Mail notice of public hearing and file PAWS report
- ✓ March 21 Water Retailers Meeting
- ✓ April 2 Ag Water Advisory Committee
- ✓ April 3 Landscape Committee Meeting
- ✓ April 10 Open Public Hearing
- ✓ April 11 Water Commission Meeting
- April 12 Continue Public Hearing in Gilroy (Informational Open House)
- April 16 Environmental & Water Resources Committee
- April 24 Conclude Public Hearing
- May 8 Adopt budget & groundwater production and other water charges

Note: Protests may be submitted between the date the notice was mailed (February 23) and the conclusion of the hearing (April 24)

Summary and Next Steps

Summary

- ▶ FY 19 increase driven by critical investments in the water supply infrastructure, and investments in future supplies
- ▶ Proposed FY 19 Groundwater Production Charge increase equates to an increase of \$1.10 per month in South County to average household

Next Steps

- ▶ Obtain Feedback from Water Commission and Environmental & Water Resources Committee
- ▶ Continue Hearing to April 24 at District Headquarters

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RESOLUTION NO. 12- 10

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SANTA CLARA VALLEY WATER DISTRICT ADOPTING PROCEDURES
FOR THE IMPOSITION OF SURFACE WATER CHARGES

WHEREAS, pursuant to Section 4 of the District Act, the purposes of the District Act are to authorize the District to provide comprehensive water management for all beneficial uses within Santa Clara County; and

WHEREAS, Section 5(5) of the District Act authorizes District to do any and every lawful act necessary to be done that sufficient water may be available for beneficial uses within Santa Clara County; and

WHEREAS, Section 5(12) authorizes the District to make contracts and do all acts necessary for the full exercise of all powers vested in the District; and

WHEREAS, Proposition 218, adopted on November 6, 1996, added Articles XIIIC and XIID to the California Constitution which impose certain procedural and substantive requirements with respect to the imposition of certain new or increased fees and charges; and

WHEREAS, whether legally required or not, the District Board believes it to be in the best interest of the community to align its practices with respect to the imposition of surface water charges to mirror the majority protest requirements of Article XIII D, section 6 applicable to charges for water services to the extent possible; and

WHEREAS, the District Board believes it to be in the best interest of the community to record its decisions regarding implementation of the provisions relating to imposition of surface water charges and to provide the community with a guide to those decisions and how they have been made; and

NOW, THEREFORE, the Board of Directors of Santa Clara Valley Water District does hereby resolve as follows:

SECTION 1. Statement of Legislative Intent. It is the Board of Directors' intent in adopting this resolution, to adopt the notice, hearing, and majority protest procedure proceedings that are consistent, and in conformance with, Articles XIIIC and XIID of the California Constitution and with the Proposition 218 Omnibus Implementation Act and the provisions of other statutes authorizing imposition of surface water charges. To the extent that these requirements are legally required to supercede the requirements set forth in the District Act, these provisions are intended to prevail.

SECTION 2. Definitions.

- A. Record Owner.** The District will provide the required notice to the Record Owner. "Record Owner" means the record owner of the property on which the surface water use-facility is present, and the tenant(s) who are District surface water permittees liable for the payment of the surface water charge.

A Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting
Procedures for the Imposition of Surface Water Charges

- B. Charge Zone.** "Charge Zone" means the District zone (i.e. Zone W-2 or Zone W-5) that a surface water user's turnout is located, which is applicable in identifying the proposed surface water charge. Surface water users that receive surface water outside of either Zone W-2 or Zone W-5 are deemed to be located in the zone to which the surface water user's turnout is most nearly located.

SECTION 3. Surface Water Charge Proceeding. The following procedures will be used:

- A. Those Subject to the charge.** The Record Owners of the existing surface use-facilities.
- B. Amount of Charge.** A formula or schedule of charges by which the customer can easily calculate the potential surface water charge will be included in the notice. The surface water charge is comprised of a basic user charge and a surface water master charge. The surface water charge must comply with the following substantive requirements:
1. Revenues derived from the surface water charge will not be used for any purpose other than that for which the charge is imposed.
 2. Revenues derived from the surface water charge will not exceed the direct and indirect costs required to provide the service.
 3. The amount of the surface water charge must not exceed the proportional cost of the service attributable to the property.
 4. No charge may be imposed for a service unless the service is actually used by, or immediately available to the property owner (or, if applicable, the tenant).
 5. No charge can be imposed for general governmental services where the service is available to the public at large in substantially the same manner as it is to property owners.
- C. Notice.** The following guidelines apply to giving notice of the surface water charge.
1. Record Owner(s) of each parcel subject to the surface water charge, meaning any parcel with a surface water use-facility, will be determined from the last equalized property tax roll. If the property tax roll indicates more than one owner, each owner will be sent the notice. District surface water permittees liable for the payment of the surface water charge will also be provided with the notice.
 2. The notice must be sent at least forty-five (45) days prior to the date set for the public hearing on the surface water charge.
 3. Failure of any person to receive the notice will not invalidate the proceedings.

A Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting
Procedures for the Imposition of Surface Water Charges

D. Surface Water Charge Protest. The following guidelines apply to the surface water charge protest procedure:

1. The notice will be mailed to all affected Record Owners at least forty-five (45) days prior to the date of the public hearing on the proposed surface water charge.
2. Written protests must be forwarded to the Clerk of the Board by mail or in person, sealed in an envelope which conceals the contents, with the property address or APN written on the outside of the envelope. To be counted, protests must be received no later than the date for return of protests stated on the notice, or the close of the public hearing, whichever is later.
3. A protest must be signed under penalty of perjury. For properties with more than one Record Owner, a protest from any one surface water user-facility will count as a protest for the property. No more than one protest will be counted for any given property.
4. Only protests with original signatures will be accepted. Photocopied signatures will not be accepted. Protests will not be accepted via e-mail. Protests must be submitted in sealed envelopes identifying the property on which the surface water user-facility is located, and include the legibly printed name of the signator. Protests not submitted as required by this Resolution will not be counted.
5. This proceeding is not an election.
6. Written Protests must remain sealed until the tabulation of protests commences at the conclusion of the public hearing. A written protest may be submitted or changed by the person who submitted the protest prior to the conclusion of the public testimony on the proposed charge at the public hearing.
7. Prior to the public hearing, neither the protest nor the envelope in which it is submitted will be treated as a public record, pursuant to the Government Code section 6254(c) and any other applicable law, in order to prevent potential unwarranted invasions of the submitter's privacy and to protect the integrity of the protest process.

E. Tabulating Protests. The following guidelines apply to tabulating protests:

1. It will be the responsibility of the Clerk of the Board to determine the validity of all protests. The Clerk will accept as valid all protests except those in the following categories:
 - a. A photocopy which does not contain an original signature;
 - b. An unsigned protest;
 - c. A protest without a legible printed name;
 - d. A protest which appears to be tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;

A Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting
Procedures for the Imposition of Surface Water Charges

- e. A protest submitted to the District via e-mail;
- f. A protest submitted in an envelope that does not have the address or APN written on the outside of the envelope;
- g. A protest signed by someone other than the Record Owner for the APN.

The Clerk's decision, after consultation with the District Counsel, that a protest is invalid is final.

- 2. An impartial person, designated by the governing board, who does not have a vested interest in the outcome of the proposed charge will tabulate the written protests submitted, and not withdrawn. The impartial person may be a member of the Clerk of the Board Office.
- 3. A Record Owner who has submitted a protest may withdraw that protest at any time up until the conclusion of the final public hearing on the surface water charge.
- 4. A property owner's failure to receive notice of the surface water charge will not invalidate the proceedings conducted under this procedure.

F. Public Hearing.

- 1. At the public hearing, the District Board will hear and consider all public testimony regarding the proposed surface water charge and accept written protests until the close of the public hearing, which hearing may be continued from time to time.
- 2. The District Board may impose reasonable time limits on both the length of the entire hearing and the length of each speaker's testimony.
- 3. At the conclusion of the hearing, the Clerk of the Board, or other neutral person designated to do the tabulation will complete tabulation of the protests from Record Owners, including those received during public hearing.
- 4. If it is not possible to tabulate the protests on the same day as the public hearing, or if additional time is necessary for public testimony, the District Board may continue the public hearing to a later date to receive additional testimony, information or to finish tabulating the protests; or may close the public hearing and continue the item to a future meeting to finish tabulating the protests.
- 5. If according to the final tabulation of the protests from Record Owners, the number of protests submitted against the proposed surface water charge (or increase of the surface water charge) within a Charge Zone exceeds 50% plus one of either: (i) the identified number of parcels within that Charge Zone, or (ii) the identified number of owners and tenants who are subject to the surface water charge within that Charge Zone, then a "majority protest" exists and the District Board of Directors will not impose the surface water charge within that Charge Zone.

A Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting
Procedures for the Imposition of Surface Water Charges

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the
following vote on February 14, 2012.

AYES: Directors T. Estremera, D. Gage, J. Judge, P. Kwok, R. Santos, B. Schmidt,
L. LeZotte
NOES: Directors None
ABSENT: Directors None
ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By:


LINDA J. LEZOTTE
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk/Board of Directors

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RESOLUTION NO.12- 11

AN AMENDED AND RESTATED RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SANTA CLARA VALLEY WATER DISTRICT ADOPTING PROCEDURES
FOR THE IMPOSITION OF GROUNDWATER PRODUCTION CHARGES

WHEREAS, Section 26 of the District Act includes provisions relating to imposition and notice and opportunity to be heard on the imposition of groundwater production charges, including the opportunity to contest the imposition; and

WHEREAS, Section 26 of the District Act provides the purposes for which groundwater production charges can be collected as follows:

1. To pay for construction, operation and maintenance of imported water facilities;
2. To pay for imported water purchases;
3. To pay for construction, operation and maintenance of facilities to conserve or distribute water including facilities for groundwater recharge, surface distribution, and purification and treatment of water;
4. To pay for debt incurred for the above purposes.

WHEREAS, Proposition 218, adopted on November 6, 1996, added Articles XIII C and XIII D to the California Constitution which impose certain procedural and substantive requirements with respect to the imposition of certain new or increased fees and charges; and

WHEREAS, whether the District's groundwater production charge is assessed upon a parcel of property or upon a person as an incident of property ownership such that it is subject to proposition 218 is a subject currently before the courts and has not yet been finally decided; and

WHEREAS, regardless of whether the District is legally required to or not, the District Board believes it to be in the best interest of the community to align its practices with respect to the imposition of groundwater production charges to mirror the majority protest requirements of Article XIII D section 6 applicable to charges for water to the extent possible; and

WHEREAS, some of the requirements of the majority protest procedure are unclear and require further judicial interpretation or legislative implementation; and WHEREAS, the District Board believes it to be in the best interest of the community to record its decisions regarding implementation of the provisions relating to imposition of groundwater production charges and to provide the community with a guide to those decisions and how they have been made;

NOW, THEREFORE, the Board of Directors of Santa Clara Valley Water District does hereby resolve as follows:

SECTION 1. Statement of Legislative Intent. It is the Board of Director's intent in adopting this amended and restated resolution, to adopt the notice, hearing, and majority protest procedure proceedings that are consistent, and in conformance with, Articles XIII C and XIII D of the California Constitution and with the Proposition 218 Omnibus Implementation Act and the provisions of other statutes authorizing imposition of water charges. To the extent that these requirements are legally required to supercede the requirements set forth in the District Act, these provisions are intended to prevail.

An Amended and Restated Resolution of the Board of Directors of the Santa Clara Valley Water District Adopting Procedures for the Imposition of Groundwater Production Charges

SECTION 2. Definition of Record Owner. The District Act authorizes the groundwater production charge to be noticed and imposed on "owners or operators of water-producing facilities" which is not based on property ownership, while Article XIII D requires that notice be provided to the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll. In order to resolve the differences between these two approaches, the District will provide the required notice to the record owner of the property on which the water-producing facility is present, as well as to the owners or operators of water producing facilities (who are tenants of that real property directly liable to pay the groundwater production charge to the District).

SECTION 3. Groundwater Production Charge Proceeding. The following procedures will be used:

- A. Those Subject to the charge.** The Record Owners of existing water producing wells including water supply and extraction/environmental wells, whether currently active or not.
- B. Amount of Charge.** A formula or schedule of charges by which the customer can easily calculate the potential charge will be included in the notice. The charge must comply with the following substantive requirements:
 - 1. Revenues derived from the charge will not be used for any purpose other than that for which the charge is imposed.
 - 2. Revenues derived from the charge will not exceed the direct and indirect costs required to provide the service.
 - 3. The amount of the charge must not exceed the proportional cost of the service attributable to the property.
 - 4. No charge may be imposed for a service unless the service is actually used by, or immediately available to the owner.
 - 5. No charge can be imposed for general governmental services where the service is available to the public at large in substantially the same manner as it is to property owners.
- C. Notice.** The following guidelines apply to giving notice of the groundwater production charge.
 - 1. The record owner(s) of each parcel subject to the charge, meaning any parcel with a water-producing facility, will be determined from the last equalized property tax roll. If the property tax roll indicates more than one owner, each owner will be sent the notice. Where tenants are directly liable to pay the groundwater production charge to the District, they will also be provided with the notice.

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2. The notice must be sent at least forty-five (45) days prior to the date set for the public hearing on the charge.
3. Failure of any person to receive notice will not invalidate the proceedings.

D. Groundwater Production Charge Protest. The following guidelines apply to the protest procedure:

1. The notice will be mailed to all affected Record Owners at least forty-five (45) days prior to the date of the public hearing on the proposed charge.
2. Written protests must be forwarded to the Clerk of the Board by mail or in person, sealed in an envelope which conceals the contents, with the property address or APN written on the outside of the envelope. To be counted, protests must be received no later than the date for return of protests stated on the notice, or the close of the public hearing, whichever is later.
3. A protest must be signed under penalty of perjury. For properties with more than one Record Owner, a protest from any one will count as a protest for the property. No more than one protest will be counted for any given property.
4. Only protests with original signatures will be accepted. Photocopied signatures will not be accepted. Protests will not be accepted via e-mail. Protests must be submitted in sealed envelopes identifying the property on which the well is located, and include the legibly printed name of the signator. Protests not submitted as required by this amended and restated resolution will not be counted.
5. This proceeding is not an election.
6. Written Protests must remain sealed until the tabulation of protests commences at the conclusion of the public hearing. A written protest may be submitted, or changed, or withdrawn by the person who submitted the protest prior to the conclusion of the public testimony on the proposed charge at the public hearing.
7. Prior to the public hearing, neither the protest nor the envelope in which it is submitted will be treated as a public record, pursuant to the Government Code section 6254(c) and any other applicable law, in order to prevent potential unwarranted invasions of the submitter's privacy and to protect the integrity of the protest process.

E. Tabulating Protests. The following guidelines apply to tabulating protests:

1. It will be the responsibility of the Clerk of the Board to determine the validity of all protests. The Clerk will accept as valid all protests except those in the following categories:
 - a. A photocopy which does not contain an original signature;
 - b. An unsigned protest;

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- c. A protest without a legible printed name;
- d. A protest which appears to be tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;
- e. A protest submitted to the District via e-mail;
- f. A protest submitted in an envelope that does not have the address or APN written on the outside of the envelope;
- g. A protest signed by someone other than the Record Owner for the APN.

The Clerk's decision, after consultation with the District Counsel, that a protest is invalid is final.

- 2. An impartial person, designated by the governing board, who does not have a vested interest in the outcome of the proposed charge will tabulate the written protests submitted, and not withdrawn. The impartial person may be a member of the Clerk of the Board Office.
- 3. A Record Owner who has submitted a protest may withdraw the protest at any time up until the conclusion of the final public hearing on the charge.
- 4. A property owner's failure to receive notice of the charge will not invalidate the proceedings conducted under this procedure.

F. Public Hearing

- 1. At the public hearing, the District Board will hear and consider all public testimony regarding the proposed charge and accept written protests until the close of the public hearing, which hearing may be continued from time to time.
- 2. The District Board may impose reasonable time limits on both the length of the entire hearing and the length of each speaker's testimony.
- 3. At the conclusion of the hearing, the Clerk of the Board, or other neutral person designated to do the tabulation will complete tabulation of the protests from Record Owners, including those received during public hearing.
- 4. If it is not possible to tabulate the protests on the same day as the public hearing, or if additional time is necessary for public testimony, the District Board may continue the public hearing to a later date to receive additional testimony, information or to finish tabulating the protests; or may close the public hearing and continue the item to a future meeting to finish tabulating the protests.
- 5. If according to the final tabulation of the protests from Record Owners, the number of protests submitted against the proposed increase of the groundwater production charge within a groundwater production charge zone exceeds 50% plus one of either: (a) the identified number of parcels within that groundwater production charge zone, or (b) the identified number of owners and operators within that groundwater production charge zone who are subject to the increased groundwater production charge, then a "majority protest" exists and the District

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Board of Directors will not impose any increase to the groundwater production charge within that groundwater production charge zone.

SECTION 4

Resolution No.11-03 adopted by the District on January 25, 2011 and Resolution No. 10-06 adopted by the District on January 26, 2010 are both hereby amended and restated in their entirety as set forth in this amended and restated resolution. This amended and restated resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Board of Directors of Santa Clara Valley Water District by the following vote on February 14, 2012.

AYES: Directors T. Estremera, D. Gage, J. Judge, P. Kwok, R. Santos, B. Schmidt,
L. LeZotte
NOES: Directors None
ABSENT: Directors None
ABSTAIN: Directors None

SANTA CLARA VALLEY WATER DISTRICT

By: 

LINDA J. LEZOTTE
Chair/Board of Directors

ATTEST: MICHELE L. KING, CMC


Clerk/Board of Directors

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